

U.S. DISTRICT COURT  
FILED AT WHEELING, WV

OCT - 7 1999

NORTHERN DISTRICT OF WV  
OFFICE OF THE CLERK

AO 243 (Rev. 5/85)

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>		District NORTHERN DISTRICT OF WEST VIRGINIA	
Name of Movant FLOYD RAYMOND LOOKER, JR.		Prisoner No. 03008-087	Case No. 1:96CR43-01
Place of Confinement CUMBERLAND FCI, Cumberland, Maryland			
<div style="display: flex; justify-content: space-between;"> <span>UNITED STATES OF AMERICA</span> <span>V. FLOYD RAYMOND LOOKER</span> </div> <div style="text-align: right; margin-top: 5px;">(name under which convicted)</div>			
<b>MOTION</b>			
<p>1. Name and location of court which entered the judgment of conviction under attack <u>Northern District of West Virginia, Wheeling, West Virginia</u></p> <p>2. Date of judgment of conviction <u>March 27, 1998</u></p> <p>3. Length of sentence <u>56 Months (28 Months on each count)</u></p> <p>4. Nature of offense involved (all counts) <u>1 Count providing material Support with intent that material to be used in a felony.</u> <u>1 Count providing material resources to terrorists.</u></p>			
<p>5. What was your plea? (Check one)</p> <p>(a) Not guilty <input type="checkbox"/></p> <p>(b) Guilty <input checked="" type="checkbox"/></p> <p>(c) Nolo contendere <input type="checkbox"/></p> <p>If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:</p> <p>_____</p> <p>_____</p> <p>_____</p>			
<p>6. If you pleaded not guilty, what kind of trial did you have? (Check one)</p> <p>(a) Jury <input type="checkbox"/></p> <p>(b) Judge only <input type="checkbox"/></p>			
<p>7. Did you testify at the trial?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>			
<p>8. Did you appeal from the judgment of conviction?</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>			

9. If you did appeal, answer the following:

- (a) Name of court Fourth Circuit Court of Appeals
- (b) Result Appeal Denied.
- (c) Date of result December 31, 1998

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court \_\_\_\_\_
- (2) Nature of proceeding \_\_\_\_\_
- (3) Grounds raised \_\_\_\_\_
- (4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes ☐ No ☐
- (5) Result \_\_\_\_\_
- (6) Date of result \_\_\_\_\_

(b) As to any second petition, application or motion give the same information:

- (1) Name of court \_\_\_\_\_
- (2) Nature of proceeding \_\_\_\_\_
- (3) Grounds raised \_\_\_\_\_

Yes ☐ No ☐

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\_\_\_\_\_

(1) First petition, etc. Yes ☐ No ☐

(2) Second petition, etc. Yes ☐ No ☐

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slightly textured appearance and some minor blemishes or dust specks. The edges of the paper are slightly irregular.

CAUTION: If you fail to set forth all ground in this motion, you may be barred from presenting additional grounds at a later date.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.

- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal. MEMORANDUM IN SUPPORT WITH APPENDICES ATTACHED TO 1:96CR-41 IS INCORPORATED BY REFERENCE HERETO:

A. Ground one: Violation of Constitutional Rights as found in  
the First and Second Amendments. (See Memorandum in Support)

Supporting FACTS (state *briefly* without citing cases or law): Conviction obtained  
by violating the Right of the people to peaceably assemble  
and to form patriot citizen militia groups in defense of  
the nation.

B. Ground two: Violation of Constitutional Rights as found in  
the Fourth Amendment. (See Memorandum in Support)

Supporting FACTS (state *briefly* without citing cases or law): Conviction obtained  
by use of evidence gained pursuant to an unconstitutional  
search and seizure.

C. Ground three: Violation of Constitutional Rights as found in  
the Fifth Amendment. (See Memorandum in Support)

Supporting FACTS (state *briefly* without citing cases or law): Conviction obtained by  
through improper use of informant; through entrapment;  
through malicious prejudice, through violation of Federal  
Statutes, and through plea of guilty which was unlawfully  
induced.

page 5 (Continued)

D. Ground Four: Violation of Constitutional Rights as found in the Sixth Amendment. (See Memorandum in Support).

Supporting FACTS: Conviction obtained by failure to disclose evidence favorable to the defendant; through perjured testimony; through ineffective assistance of counsel; through judicial prejudice, and abuse of judicial discretion.

E. Ground Five: Violation of Constitutional Rights as found in the Eighth Amendment. (See Memorandum in Support).

Supporting FACTS: Sentencing and Sentencing Enhancements resulted in cruel and unusual punishment.

F. Ground Six: Violation of Constitutional Rights as found in the Tenth Amendment. (See Memorandum in Support).

Supporting FACTS: Conviction obtained by violating States Rights.

(5 Cont'd)

G. Ground Seven: Violation of Constitutional Rights as  
found in the Fourteenth Amendment. (See Memorandum in Support)

Supporting FACTS (state *briefly* without citing cases or law): Conviction obtained  
through Selective Prosecution, and Outrageous Government  
misconduct (Fraudulent Indictment and Fraudulent Conviction).

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?  
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing STEPHEN HERNDON, Wheeling, West Virginia

(b) At arraignment and plea DAVID JIVIDEN, Wheeling, West Virginia

(c) At trial WILLIAM CIPRIANI and WILLIAM GALLAGHER  
Wellsburg, WV Wheeling, WV

(d) At sentencing WILLIAM CIPRIANI and WILLIAM GALLAGHER  
Wellsburg, WV Wheeling, WV

(c) On appeal WILLIAM GALLAGHER, Wheeling, West Virginia

(f) In any post-conviction proceeding WILLIAM GALLAGHER and TIMOTHY COGAN

Wheeling, WV

Wheeling, WV

(g) On appeal from any adverse ruling in a post-conviction proceeding \_\_\_\_\_

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☒ No ☐

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

Northern District of West Virginia, Wheeling, West Virginia

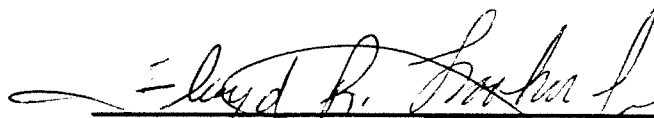
(b) Give date and length of the above sentence: March 27, 1998, 40 Months Case #

1:96CR41, 120 Months Case # 1:96CR42, 120 Months Case # 1:CR96 40

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☒ No ☐

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.



Signature of Attorney (if any)

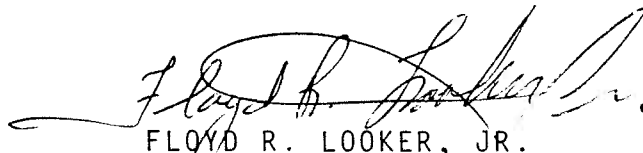
*without Prejudice*

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I declare under penalty of perjury that the foregoing is true and correct. Executed on

9-19-99

(date)



FLOYD R. LOOKER, JR.

Signature of Movant

*without Prejudice*

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